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C.R.P.No.260 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.260 of 2023

and

C.M.P.No.2138 of 2023

1.E.Murthy

2.M.Devika

3.K.Raghu

... Petitioners

Vs.

1.M/s.Kotak Mahindra Prime Limited,
Represented by its Authorized Signatory,
Mr.S.Godson Vinokaran
1st Floor, CEEBROS Centre,
No.45, Motieth Road, Egmore,
Chennai – 600 008.

Presently at 6th Floor, A Wing Samsons
Towers, 402 – I, Pantheon Road,
Egmore, Chennai – 600 008.

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to strike off the proceedings in E.P.3465/2022 in A.C.P.No.325 of 2020 pending on the file of the XXVI Asst City Civil Court at Chennai.



For Petitioners : Mr.E.Vinoth kumar

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ORDER

The Civil Revision Petition has been filed to strike off the proceedings in E.P.No.3465 of 2022 in A.C.P.No.325 of 2020 pending on the file of the XXVI Asst City Civil Court at Chennai.

2. The revision petitioners are the judgment debtors and borrowed loan from the respondent. On account of default in payment of instalments, the respondent company instituted proceedings in A.C.P.No.325 of 2020 and an Award was passed by the competent Court. The respondent/deGREE holder filed an Execution Petition for execution of the decree and the revision petitioner now filed the present Civil Revision Petition mainly on the ground that no summon was served on the revision petitioner in the Arbitral proceedings.

3. Presuming that the ground raised is correct, the remedy available to the revision petitioner is preferring an appeal and once a decree is passed, Execution Court cannot adjudicate the issues on merits and thus, the revision



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petitioner has to seek appropriate relief by approaching the appropriate Forum. The scope of Execution proceedings cannot be expanded for the purpose of adjudication of issues on merits. Thus, the ground raised by the revision petitioner cannot be considered for the purpose to strike off the Execution Proceedings and the revision petitioner is at liberty to initiate appropriate proceedings.

4. With this liberty, the Civil Revision Petition in C.R.P.No.260 of 2023 stands dismissed. No costs. Connected miscellaneous petition is closed.

07.02.2023

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Index : Yes
Speaking order
Neutral Citation : Yes

To

The Judge,
XXVI Asst City Civil Court,
Chennai.



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S.M.SUBRAMANIAM, J.

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